

ORDINANCE NO. 023-14

AN ORDINANCE AUTHORIZING
EXECUTION OF RIGHT OF ENTRY
AGREEMENTS AND PAYMENT OF \$18
MILLION FOR UTILITY ENGINEERING
AND RELOCATION COSTS FOR THE
RED LINE EXTENSION PROJECT

WHEREAS, The Chicago Transit Authority (“Authority”) is undertaking a project to build stations and extend rail infrastructure on the Red Line, also known as the Red Line Extension Project (the “Project”); and

WHEREAS, The Project will extend the Red Line from the existing terminal at 95th/Dan Ryan to 130th Street and include four new stations near 103rd Street, 111th Street, Michigan Avenue, and 130th Street, with multimodal connections at each station including bus, bike, pedestrian, and park & ride facilities, and a new yard and shop near 120th Street; and

WHEREAS, The Project will reduce commute times for residents, improve mobility and accessibility, and foster economic development, where stations may serve as catalysts for neighborhood revitalization; and

WHEREAS, Section 6 of the Metropolitan Transit Authority Act (“MTA Act”), 70 ILCS 3605, permits the Authority to acquire, construct, own, operate, and maintain a public service transportation system in the area, and Section 10 of the MTA Act provides that the Authority has the statutory right to require utility relocation; and

WHEREAS, The Project requires relocation of existing utilities owned by others; and

WHEREAS, Each utility owner generally requires that the advance engineering and construction services for the relocation of its utilities for the Project be performed by the utility or performed by a firm under the direction and control of the utility to avoid disruption of service to its customers and affirm applicable criteria and standards, and therefore contracts with the utility owners for advance engineering and construction services are not adapted to award by competitive bidding by the Authority; and

WHEREAS, The Authority is ready for the owners of the utilities identified in Exhibit A to proceed with the advance engineering, and selective advance relocation, of their utilities in connection with the Project; and

WHEREAS, The relocation of each affected utility may involve one or more contracts for advance engineering, and thereafter one or more contracts for the

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construction of the utility relocation, with a final scope to be determined as engineering efforts are finalized; and

WHEREAS, It is in the best interest of the Authority, and in accordance with construction best practices, to pay the utility owners for their advance utility engineering and relocation work in advance of awarding the Project's construction contract to reduce risk and cost to the Authority during the construction of the Project; and

WHEREAS, In order to expedite payment of all required advance utility engineering and relocation expenses, staff recommends that the Authority's Chief Infrastructure Officer, with the approval of the Authority's General Counsel, be authorized to enter into agreements for amounts not exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00) to any utility owner from time to time, with the President's approval also required for amounts exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00), up to a maximum aggregate amount of Eighteen Million Dollars (\$18,000,000.00); and

WHEREAS, The Chief Infrastructure Officer will report the Authority's expenditures for utility relocation expenses to the Board quarterly; and

WHEREAS, During the Project, the Authority also may be required to enter into Right of Entry (ROE) Agreements to provide access to Authority-owned property for utility owners to perform advance utility engineering or construction activities; and

WHEREAS, Staff recommends that the Transit Board authorize the Chief Infrastructure Officer or designee to enter into ROE Agreements for the utility owners to access Authority property for terms of up to thirty-six (36) months, pursuant to which the Authority may require the utility owners to pay the Authority a fee of no more than Ten Thousand Dollars (\$10,000.00) per month and indemnify the Authority; and

WHEREAS, During the Project, the Authority also may be required to enter into ROE Agreements to perform advance utility engineering or construction activities and/or to temporarily access other properties in close proximity to the Project for the purposes of Authority operations, construction, engineering, or maintenance activities necessary for the utility relocation work for the Project; and

WHEREAS, Staff recommends that the Board authorize the Chief Infrastructure Officer or designee to enter into ROE Agreements with owners of properties in close proximity to the Project for terms of up to thirty-six (36) months pursuant to which the Authority may pay the owners a fee of no more than Ten

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Thousand Dollars (\$10,000.00) per month and indemnify the owners; and

WHEREAS, Staff further recommends that the Board authorize the Chief Infrastructure Officer or designee to enter into agreements with the property owners and utility owners which may require the Authority to indemnify the utility owners, if the Chief Infrastructure Officer and General Counsel deem such provisions necessary and in the Authority's best interest; and

WHEREAS, This ordinance is intended to cover anticipated advance utility engineering and relocation work based on current known utility conflicts unlikely to be avoided by design-build innovation, or likely to result in costly delays to the Project; now, therefore:

BE IT ORDAINED BY THE CHICAGO TRANSIT BOARD
OF THE CHICAGO TRANSIT AUTHORITY:

SECTION 1. The Chicago Transit Board hereby makes the findings of fact and determinations set forth in the preamble to this ordinance.

SECTION 2. The Chicago Transit Board hereby determines that contracts for the advance engineering services for the relocation of utilities and the selective advance relocation of certain utilities for Red Line Extension Project may be entered into with the utility owners and are not adapted to award by competitive bidding by the Authority.

SECTION 3. The Chicago Transit Board hereby authorizes payment to the owners of the utilities identified in Exhibit A for engineering and construction services to relocate their utilities in an aggregate not-to-exceed amount of Eighteen Million Dollars (\$18,000,000.00) within four years from the date of this ordinance. In the event that the Authority's Chief Infrastructure Officer believes that additional funding is needed to advance utility relocation efforts, the Chief Infrastructure Officer will return to the Board to request any additional funding.

SECTION 4. The Chief Infrastructure Officer or designee, with the approval of the Authority's General Counsel or designee, is authorized to execute agreements with the utility owners for utility relocation services in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00). The President of the Authority or designee also shall sign any agreements in an amount exceeding Two Hundred Fifty Thousand Dollars (\$250,000.00).

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SECTION 5. Notwithstanding any prior delegations of authority under Section 3.5 of the Authority's Procurement Policy and Procedures, any estimated cost on Exhibit A under Three Million Dollars (\$3,000,000.00) that is increased to Three Million Dollars (\$3,000,000.00) or more, or any estimated cost on Exhibit A that is increased by Three Million Dollars (\$3,000,000.00) or more shall require the written approval of the President, or his designee, and the Chairman of the Board, or his designee, prior to any such expenditure.

SECTION 6. The Chief Infrastructure Officer or designee is further authorized to negotiate and execute Right of Entry Agreements which shall permit utility owners to perform engineering and construction for utilities requiring advance relocation on Authority-owned property. Such Right of Entry Agreements will have a term not to exceed thirty-six (36) months, may require the utility owners to indemnify the Authority and pay the Authority a fee which does not exceed Ten Thousand Dollars (\$10,000.00) per month, and will include such other terms as are substantially in conformance with the Right of Entry Agreement on Chicago Transit Authority Property attached as Exhibit B hereto.

SECTION 7. The Chief Infrastructure Officer or designee is further authorized to negotiate and execute Right of Entry Agreements with owners of properties in close proximity to the Project which shall permit the Authority and the utility owners to perform engineering and construction for utilities requiring advance relocation. Such Right of Entry Agreements will have a term not to exceed thirty-six (36) months, may require the Authority to indemnify the property owners and pay the property owners a fee which does not exceed Ten Thousand Dollars (\$10,000.00) per month, and will include such other terms as are substantially in conformance with the Right of Entry on Private Property attached as Exhibit C hereto. The Chief Infrastructure Officer shall periodically report expended Right of Entry payments to the Board.

SECTION 8. The Chief Infrastructure Officer or designee is further authorized to enter into agreements with property owners and utility owners which may require the Authority to indemnify the utility owners, if the Chief Infrastructure Officer and General Counsel deem such provisions necessary and in the Authority's best interest.

SECTION 9. The Authority's Chief Infrastructure Officer shall provide the Chairman of the Board with a quarterly report of the status of each utility relocation project funded through this ordinance.

SECTION 10. The Chairman, or his designee, is further authorized to take such actions and execute such documents as may be necessary to implement the objectives of this ordinance.

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SECTION 11. This ordinance shall be in full force and effect from and after its passage.

APPROVED:

PASSED:

Chairman

February 8, 2023

Assistant Secretary

February 8, 2023